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Attorneys for Defendant
WELLS FARGO BANK, N.A.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ALICIA HERNANDEZ, *et al.*,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

WELLS FARGO & COMPANY and
WELLS FARGO BANK, N.A.,

Defendants.

No. 3:18-cv-07354 WHA

**PLAINTIFFS AND DEFENDANT WELLS
FARGO & COMPANY'S JOINT RESPONSE
TO THE COURT'S JUNE 3, 2019 ORDER**

Date: June 20, 2019

Time: 8:00 a.m.

Courtroom: 12

Judge: Hon. William H. Alsup

1 Plaintiffs and Defendant Wells Fargo & Company (the “Holding Company”) submit this
2 joint response to the Court’s June 3, 2019 Motion to Dismiss Order (Dkt. No. 87) (the “June 3
3 Order”), which requires the parties to submit a “supplemental brief, not to exceed five pages,
4 regarding the impact, if any, of this order on [the Holding Company’s] pending motion to dismiss.”

5 Plaintiffs do not bring their breach of contract claim (First Cause of Action) against the
6 Holding Company, and the June 3 Order dismissed Plaintiffs’ claims for negligence (Third Cause of
7 Action), wrongful foreclosure (Fourth Cause of Action), and violations of the Maryland Consumer
8 Protection Act and Maryland Consumer Debt Collection Act (Seventh Cause of Action) for failure to
9 state a claim upon which relief could be granted pursuant to Rule 12(b)(6). Thus, the claims that
10 remain at issue for the Holding Company’s motion are: intentional infliction of emotional distress
11 (Second Cause of Action), violation of the California Homeowner Bill of Rights (Fifth Cause of
12 Action), violation of California’s Unfair Competition Law (Sixth Cause of Action), and violations of
13 the Illinois Consumer Fraud Act, the New Jersey Consumer Fraud Act, Section 349(a) of New
14 York’s General Business Law, and the Pennsylvania Unfair Trade Practices and Consumer
15 Protection Law (Seventh Cause of Action). The parties’ positions on these remaining claims have
16 already been briefed, and the June 3 Order does not affect those positions.

17 The parties therefore agree that the decisions for the Court on the pending motion to dismiss
18 are whether Plaintiffs have adequately alleged, pursuant to Rule 12(b)(6), that the Holding Company
19 is (1) directly liable in connection with Plaintiffs’ Second, Fifth, Sixth, and Seventh Causes of
20 Action through its participation in the allegedly wrongful denial of loan modifications, and/or (2)
21 indirectly liable under agency and/or alter ego principles on the Second, Fifth, Sixth, and Seventh
22 Causes of Action.

1 Dated: June 10, 2019

WINSTON & STRAWN LLP

2 By: /s/ Amanda L. Groves

3 Amanda L. Groves

4 Morgan E. Stewart

5 Kobi K. Brinson (Admitted *pro hac vice*)

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7 Attorneys for Defendant

8 WELLS FARGO BANK, N.A.

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9 By: /s/ Michael L. Schrag

10 Michael L. Schrag

11 Joshua J. Bloomfield

12 Attorneys for PLAINTIFFS